vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.5217 OF 2007**

President, Mohol Taluka Sahakari
Shikshan Prasarak Mandal, Solapur & anr. ... Petitioners

V/s.

Dattatraya Mohanrao Gaikwad & Ors. ... Respondents

Mr.N.P. Shimpi for Petitioner
Mr.Nitin Jamdar for Respondent No.1
Mr.A.P. Vanarse, AGP, for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **SEPTEMBER 13, 2007**

**P.C.:**

. The petitioners have grossly abused the process of law. The respondent No.1 was working as a PT teacher from 1991 and made permanent thereafter. His services were terminated on 20.2.1996. The respondent challenged his termination from service by filing an appeal before the School Tribunal. That appeal was allowed by the Tribunal. The school i.e. the petitioner herein challenged that order of the Tribunal by filing Writ Petition NO.2225 of 2000. The learned Single Judge (S.Radhakrishnan, J.) has observed as follows:

> "... Thereafter the Petitioners have given promotion as a P.T. Teacher to Mr.K.K. Bhole also, who was working as laboratory Assistant. From the above facts, it is clear that the Petitioners school is deliberately trying to avoid implementing the order passed by the

> School Tribunal. I do no find any perversity in the reasonings adopted by the School Tribunal and there is no error on the face of record. The Petition is totally devoid of merits.

2. It appears that after this order, the petitioners reinstated the respondent No.1 and again terminated his services on the ground that there was insufficient workload for him. This was done on 24.2.2002. An appeal was filed by the respondent which has resulted in the petitioner's case being negated. The School Tribunal has held that there are two permanent posts for PT teachers in the school and that the respondent No.1 was entitled to one of those two posts. It is contended on behalf of the petitioner that since Shri Bhole was senior to the respondent No.1 he was entitled to continue with the petitioners by terminating the services of the respondent. This stand has been found to be baseless, specifically by this Court in Writ Petition NO.2225 of 2000. The petitioners, therefore, cannot insist that Shri Bhole is senior to the Respondent once again in the present petition. Apart from this, Shri Bhole it appears from the order of the School Tribunal was working as a Laboratory Assistant while the respondent was a PT teacher.

3. Petition rejected with costs.